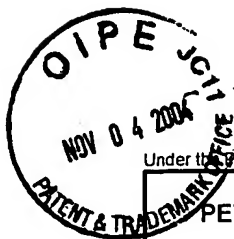


11-05-04

DAE  
IFW

PTO/SB/61 (09-04)

Approved for use through 07/31/2006, OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

Docket Number (Optional)

IMMC 208.2

First Named Inventor: TERSTAPPEN

Art Unit: 1723

Application Number: 10/733,829

Examiner: Reifsnyder

Filed: 12/10/2003

Title: Magnetic Separation Apparatus and Methods

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.**

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(l)). Applicant claims small entity status.  
See 37 CFR 1.27.

☒ Other than small entity - fee \$ 110 (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of  
Corrected Drawings (identify the type of reply):

☐ has been filed previously on \_\_\_\_\_.

☒ is enclosed herewith.

B The issue fee of \$ 1630

☒ has been filed previously on 9/23/2004.

☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

11/08/2004 HAL111 00000003 10733829

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Joseph F. Aceto Signature 11/04/2004 Date

Joseph F. Aceto Typed or printed name 50701 Registration Number, if applicable

3401 Masons Mill Rd, Suite 100 Address 215-830-0777 ext 237 Telephone Number

Huntingdon Valley, PA 19006 Address

Enclosure ☐ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unavoidable delay☒ Copy of 9/23/2004 Fax of issue/Pub Fee

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

11/04/2004  
Date

Joseph F. Aceto Signature  
Joseph F. Aceto  
Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

<u>Joseph F. Aceto</u>	<u>11/04/2004</u>
Signature	Date
<u>Joseph F. Aceto</u>	<u>50701</u>
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Please see Attached response.

(Please attach additional sheets if additional space is needed.)



In re the Application of

TERSTAPPEN Leon and DOLAN, Gerald

Serial No. 10/733,829

Filed: 12/10/2003

For: MAGNETIC SEPARATION  
APPARATUS AND METHODS

Examiner: Reifsnyder, David A.

Group Art Unit: 1723

Response to 10/27/2004 Notice

Our File No.: IMMC 208.2

***Petition for Revival of an Application Abandoned Unavoidably under 37 CFR 1.137(a)***

This petition is to request revival of abandoned application 10/733,829 after an unavoidable failure to timely file corrected drawings. While applicant was able to timely file the issue and publication fee via facsimile transmission (see attached copies), corrected drawings (also attached) which should have been simultaneously submitted with the fee were omitted due to a clerical error.

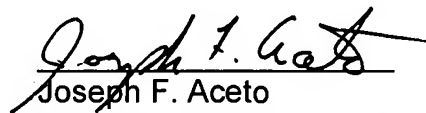
This error stems from an unavoidable series of events within the company that prevented efficient management of our docketing system. Prosecution of this case, along with 130 foreign and U.S. filed applications, has recently been completely transferred to in-house management from an outside law firm previously handling the applications. Consequently, this case was filed as a divisional from a parent case, previously managed by the outside firm. Concurrently with the mailing of the "Notice of Allowance and Fees Due" (6/23/2004), we were actively organizing our paper docketing system. The task was competently managed by a paralegal, experienced in legal clerical procedures, but she left the company at the end of August 2004. Further, at the same time of the mailing of the Allowance (June-July 2004), we began instituting a commercial electronic backup system (PATTSY, OP Solutions, Inc.) for which data had not been completely entered at the time of the paralegal's departure. Additionally, this electronic system was fraught with inherent software

problems connected with the company's operating system, requiring a period of technical debugging before being able to use the system with any confidence.

Accordingly, while reliance upon the paralegal and the docketing system was reasonable at the time of the mailing of the allowance, the subsequent loss of the services of the paralegal together with the electronic backup problems removed the system checks for clerical errors. Upon receipt of this Allowance in June, the section of the examiner's comment requiring formal drawings was misplaced and not with the "Notice of Allowance" in the file wrapper. The clerical error was not recognized at the time and, consequently, not properly entered in the docket with the necessary response for allowance. Unfortunately, because this error went unchecked, on September 23, 2004 only the issue and publication fee were sent by facsimile transmission.

While we have an established business routine for docketing procedures which includes an electronic backup, this clerical error became regrettably unavoidable when it occurred at a critical point in the establishment of our docketing procedures. Thus after extensive prosecution on the merits and timely payment of all required fees to date, applicant has included the required formal drawings and respectfully requests revival of this abandoned application.

Yours Respectfully,

A handwritten signature in black ink, appearing to read "Joseph F. Aceto", written over a horizontal line.

Joseph F. Aceto

PTO Registration No. 50701

Telephone: (215) 830-0777 ext 237

Facsimile: (215) 914-1117

## TRANSACTION REPORT

P. 01

SEP-23-2004 THU 09:31 AM

FOR: IMMUNICON CORPORATION

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DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
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TOTAL : 1M 4S PAGES: 2



## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections of the Block 1)

40541 7500 06/23/2004

IMMUNICON CORPORATION  
3401 MASONS MILL ROAD  
SUITE 100  
HUNTINGDON VALLEY, PA 19006

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## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Joseph F. Aceto	(Depositor's name)
Joseph F. Aceto	(Signature)
23 September 2004	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,829	12/10/2003	Leon W.M.M. Terstappen	IMMC 208.2	2195

TITLE OF INVENTION: MAGNETIC SEPARATION APPARATUS AND METHODS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$300	\$1630	09/23/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
REIFSNYDER, DAVID A	1723	210-695000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.303).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Joseph F. Aceto  
2 James L. Wilcox  
3 Immunicon Corp

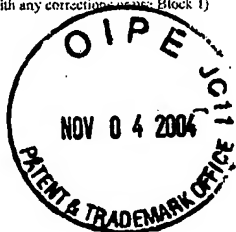
## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: MailMail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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40541 7590 06/23/2004

IMMUNICON CORPORATION  
3401 MASON'S MILL ROAD  
SUITE 100  
HUNTINGDON VALLEY, PA 19006

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## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Joseph F. Aceto	(Depositor's name)
Joseph F. Aceto	(Signator's)
23 September 2004	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,829	12/10/2003	Leon W.M.M. Terstappen	IMMC 208.2	2195

TITLE OF INVENTION: MAGNETIC SEPARATION APPARATUS AND METHODS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$300	\$1630	09/23/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
REIFSNYDER, DAVID A	1723	210-695000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Joseph F. Aceto

2 James L. Wilcox

3 Immunicon Corp

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

Immunivest Corporation

(B) RESIDENCE (CITY AND STATE OR COUNTRY)

Wilmington, DE (US)

Please check the appropriate assignee category or categories (will not be printed on the patent);

☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☒ Publication Fee
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.
- ☒ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

Joseph F. Aceto

(Date)

09/21/04

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

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Received  
Cover  
Page

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SEP-23-2004 THU 09:30 AM IMMUNICON CORPORATION		FAX NO. 12159141117		P. 01	
<b>PART B - FIF(5) TRANSMITTAL</b>					
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<p><b>INSTRUCTIONS:</b> This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Steps 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated below or directed elsewhere as indicated in Step 1, by (a) specifying a new correspondence address, (b) indicating a separate "PAT. ADDRESS" for maintenance fee payments, or (c) indicating a separate "PUB. ADDRESS" for publication fee payments.</p> <p><b>NOTE:</b> A certificate of mailing can only be used for domestic mailings of the Patent Transmittal. This certificate cannot be used for any other accompanying papers. Each individual paper, such as an assignment or formal claim, must have its own certificate of mailing or transmittal.</p>					
<p><b>IMMUNICON CORPORATION</b>  <b>3401 MASONS MILL ROAD</b>  <b>SUITE 100</b>  <b>HUNTINGDON VALLEY, PA 19006</b></p>					
<p><b>Signature of Applicant:</b> <u>Joseph F. Aceto</u> (Signature)  <u>Joseph F. Aceto</u> (Print)  <u>23 September 2004</u> (Date)</p>					
APPLICATION NO.	FILED DATE	PRINT NAME OF INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
(071)123	12/10/2003	LOAN W. M. TERNAPPE	NAME 2002	2195	
TITLE OF INVENTION: MAGNETIC SEPARATION APPARATUS AND METHODS					
APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
non-provisional	NO	\$4530	\$300	\$4830	09/23/2004
CLASSIFIER	ART UNIT	CLASS. SUBCLASS			
REFSYNDR, DAVID A	172	210-45000			
<p>1. Change of correspondence address or indication of "Pat. Address" or "Pub. Address".</p> <p>(a) Change of correspondence address (or Change of Correspondence Address form PTO-324) is required.</p> <p>(b) "Pat. Address" indication (or "Pat. Address" indication form PTO-324) is required if the address is not the same as the "Pat. Address" indicated on the last filing.</p> <p>2. For printing on the patent form, the (1) the address of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (listing as a member a registered attorney or agent) and the names of up to 3 registered patent attorneys or agents. If no name is listed, no name will be printed.</p> <p><u>Joseph F. Aceto</u>  <u>James L. Wilcox</u>  <u>Immunicon Corp</u></p>					
<p>3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)</p> <p>(a) NAME OF ASSIGNEE: <u>Immunicon Corporation</u></p> <p>(b) RESIDENCE (CITY AND STATE OR COUNTRY): <u>Wilmington, DE (US)</u></p>					
<p>Please check the appropriate category or categories (will not be printed on the patent): <input type="checkbox"/> individual <input checked="" type="checkbox"/> corporation or other private group entity <input type="checkbox"/> governmental</p> <p>4. The following fee(s) are enclosed:</p> <p><input checked="" type="checkbox"/> Issue Fee <input type="checkbox"/> A check in the amount of the fee(s) is enclosed.</p> <p><input checked="" type="checkbox"/> Publication Fee <input type="checkbox"/> Payment by credit card, Form PTO-302 is attached.</p> <p><input type="checkbox"/> Advance Order - # of Copies: _____ <input type="checkbox"/> The Director is hereby authorized by check (or other payment, to deposit an item with this form).</p> <p>5. Discover the Patent is required to apply the basic Fee and Publication Fee (if any) or to apply any previously paid fees to the application identified above.</p>					
<p><b>Signature of Applicant:</b> <u>Joseph F. Aceto</u> (Signature)  <u>09/21/04</u> (Date)</p> <p><b>NOTE:</b> The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the record of the United States Patent and Trademark Office.</p> <p>This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a patent by the public which is in the time by the USPTO in the process of examination. Confidentiality is provided by 37 CFR 1.312 and 1.314. This collection is intended to use 12 months to complete, including gathering, preparing, and submitting the required information to the USPTO. Time will vary depending upon the individual case. ANY correspondence to the extent of time you require to complete this form and/or prepare for making the inquiry, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO THE Commissioner for Patents, Alexandria, Virginia 22313-1450.</p> <p>Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.</p>					
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<p>PTOL-33 (Rev. 11/03) Approval for use through 04/30/2004. OMB 0551-0033 U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE          PAGE 12/12 RCW/AT 9/23/2004 9:31:38 AM [Eastern Daylight Time] 1 BYR:USPTO-EFJOF-20 1 DMS:246400 1 CSID:12159141117 1 DURATION (mm:ss)01:14</p>					